THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No.1450 of 2006

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DATED: 30-01-2006

Between:

Capt. B.Francis D.Raj (Retd.) . . .Petitioner

and

OIC, EME Records, Secunderabad,

and others . . .Respondents

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O R D E R:

The petitioner retired as a Captain in the Indian Army in May, 1991. His grievance is that he is being paid less pension amount, than the one paid to a retired Honorary Captain and that there exists a serious anomaly in the matter of fixation of pay structure and pension for these two categories of posts.

Learned counsel for the petitioner had made extensive submissions touching on the merits of the matter and the manner, in which, an incumbent becomes Captain on the one hand, and Honorary Captain on the other hand.

Heard the learned Standing Counsel for the respondents.

A soldier in the Indian Army gets promotion to the post of Havildar. If a Havildar passes the Junior Commission Test, he would be promoted as Nb/Subedar and after acquiring seniority, he becomes Subedar. At the stage of Subedar, an officer is provided with an opportunity, to undergo the Regimental Commission, which is also known as Staff Selection Commission, (for short, "the Commission"). Such of the candidates, who successfully undergo the Commission, would be promoted to the rank of Lieutenant and thereafter, to that of Captain. On the other hand, if a Subedar does not go through the Commission, he would become Subedar Major by promotion. Thereafter, he would be promoted as Honorary Lieutenant and subsequently, as Honorary Captain, depending on the performance, and compliance with the stipulated conditions.

From the above, it is clear that a Subedar would get out of turn promotion as

Lieutenant, if he successfully completes Commission, whereas a Subedar, who does not undergo such Commission, would become Honorary Lieutenant, after acquiring the promotion to the post of Subedar Major. A Subedar, who is successful in the Commission, will be rewarded by an early promotion as Lieutenant, compared to the one, who is not selected in such Commission.

By the time the petitioner retired as Captain, his pay was Rs.3,200/- and his pension was sanctioned at Rs.1,600/-. It is also a matter of record that the pay of the Honorary Captain was Rs.3,400/- and the pension payable for the incumbent was Rs.1,700/-. Though basically, there may appear to be anomaly, in the ultimate analysis, it emerges that before reaching the stage of Honorary Captain, a Subedar has to pass through the stages of Subedar and Honorary Lieutenant, whereas a Subedar can become Captain, after being promoted as Lieutenant, on going through the Commission. This discussion is undertaken not on merits of the matter, but only with a view to point out that the posts of Honorary Captain on the one hand and Captain, on the other hand, are not identical, from the point of view of promotional avenues. Further, the fixation of pension of the petitioner was not altered ever since it had been finalized in the year 1991.

It has been urged on behalf of the petitioner that based upon the representation made by the petitioner and other similarly situated persons, some change, in the service conditions in the posts referred to above, has been effected. However, that hardly constitutes any basis for revising the pension of the petitioner, at this stage. The claim of the petitioner is barred by laches, since it is made 15 years after the pension was fixed.

Hence, the writ petition is dismissed. There shall be no order as to costs.

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(L.NARASIMHA REDDY, J)

30th JANUARY, 2006.

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